

## United States Patent and Trademark Office



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,779	01/03/2001	Jean-Louis Ruelle	BM45311	5330
25308 7.	590 05/23/2002			
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ATTN: ALLEN BLOOM, ESQ 4000 BELL ATLANTIC TOWER			BASKAR, PADMAVATHI	
1717 ARCH STREET PHILADELPHIA, PA 19103			ART UNIT	PAPER NUMBER
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			DATE MAILED: 05/23/2002	1

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary    Examiner   Examiner   Art Unit   Padmarethi v Baskar   1645			Application No.	Applicant(s)		
Padmavathi v Baskar   1645    - The MAILING DATE of this communication appears on the cover sheet with the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  If the period for reply specified above is less than thinty (20) days, and part of their good days will be considered timely.  If the period for reply specified above is less than thinty (20) days, and part of their period of the reply and the specified of the communication.  If the period for reply specified above is less than thinty (20) days, and part of their period of their period period of their	Office Action Summary		09/674,779	RUELLE, JEAN-LOUIS		
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Entransients of the many be available under the provision of 3° CFR 1.35(d). In no event, however, may a reply be timely filled  Entransients of the many be available under the provision of 3° CFR 1.35(d). In no event, however, may a reply be timely filled  If the period for reply specified above is lies than thirty (30) days, a reply while the sellutory minimum of thirty (30) days, will be considered timely.  If No period for reply specified above is lies than thirty (30) days, a reply while the sellutory minimum of thirty (30) days, and period and period for reply will be sellutory minimum of the period of the communication of the period of the communication of the period of the communication of the communication.  Falsianes to reply while his sell of estending period of the communication of the communication of the communication of the communication.  Falsianes to reply while his sell of the communication of the communication of the communication.  This action is FINAL.  2b) This action is non-final.  3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under £x parte Quayle, 1935 c.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 27-61 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5   Claim(s) 27-61 is/are allowed.  5   Claim(s) 27-61 is/are allowed.  6   Claim(s) 27-61 is/are subject to restriction and/or election requirement.  Application Papers  Application Papers  10   The drawing(s) filed on is/are: a)   accepted or b  objected to by the Examiner.  Application Papers  11   The proposed drawings are required in reply to this Office action.  12   The proposed drawings are required in reply to this Office action.  13   Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  14   Acknowledgment is						
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## RESTRICTION

1. Applicant's amendment filed on 6/11/00 has been entered. Claims 1-26 have been canceled. Claims 27-61 have been entered, Claims 27-61 are pending in the application.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 27- 39, 53-54 and 61 drawn to polypeptide, method of making and a method of use as a vaccine. Further election of invention required.

Group II, claims 40-52 and 60 drawn to DNA, vector and host cell. Further election of invention required.

Group III, claim 55 drawn to an antibody. Further election of invention required.

Group IV, claim 56 drawn to a method for inducing an immune response using a polypeptide. Further election of invention required.

Group V, claim 57 drawn to a method for diagnosing M.catarrhalis infection using peptide or antibody. Further election of invention required.

Group VI, claim 58 drawn to a method for inducing immune response using polynucleotide. Further election of invention required.

Group VII, claim 59 drawn to a method for the treatment of M.catarrhalis infection using antibody. Further election of invention required.

The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

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Group I is directed to a polypeptide, method for producing the polypeptide and a method of use as vaccine which is the first product and first method of using the product. The special technical feature is the polypeptide, which is made up of amino acids. Groups II-III are drawn to structurally different products such as nucleic acids and antibodies which do not require each other for their practice and do not share the same or a corresponding technical feature. The Group IV-VII inventions are drawn to methods having different goals, method steps and starting materials, which do not require each other for their practice and do not share the same or a corresponding technical feature. Note that PCT Rule 13 does not provide for multiple products or methods within a single application. Since the special technical feature of the Group I invention is not present in the Group II-VII claims, and the special technical features of the Group II-VII inventions are not present in the Group I claims, unity of invention is lacking.

## DISTINCT INVENTIONS

3. This application contains claims directed to more than one invention in each group.

These inventions are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1 as different sequences are considered as unique, different and distinct inventions.

The inventions are as follows:

SEQ.ID.NOS. 1, 2, 3, 4, 5, 6, 7, 8, 13 and 14.

The inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the inventions lack the same or corresponding special technical features for the following reasons: Sequences listed as SEQ.ID.NOS 1-8, 13 and 14 are different to each other and lack the same or corresponding special technical features

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- 4. Applicant is required, in reply to this action, to elect a group and one sequence and identify the SEQ.ID.NO to which the claims shall be restricted. The reply must also identify the claims readable on the elected invention, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.
- 5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Padmavathi v Baskar whose telephone number is (703) 308-8886. The examiner can normally be reached on M-F (6:30A.M-4: 00 P.M.) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

P. Baskar Ph.D.

5/22/02

LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINED
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